

Express Mail Label No. EL113364863US

PATENT APPLICATION
Docket No.: 7927.90



DECLARATION, POWER OF ATTORNEY, AND PETITION

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I, James B. Loveland declare: that I am a citizen of the United States of America that my residence and post office address is 1885 North Skyline Drive, Orem, Utah 84097, that I verily believe I am the original, first, and sole inventor of the subject matter of the invention or discovery entitled "Graphical Method and System for Modeling and Estimating Construction Parameters" for which a patent is sought and which is described and claimed in the specification attached hereto and was amended on August 31, 1999; that I have reviewed and understand the contents of the above-identified specification, including the claims as amended by the amendments referred to above and that I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Section 1.56(a) of Title 37 of the Code of Federal Regulations.

I further declare that this application discloses and claims only subject matter disclosed in the earlier filed pending application, Serial No. 08/991,148, filed December 16, 1997, for which the benefit under Section 120 of Title 35 of the United States Code is claimed.

I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patent issuing thereon.

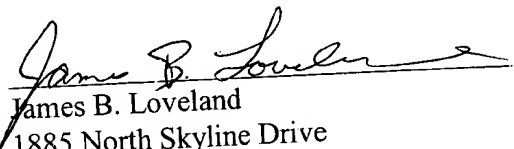
I hereby appoint as my attorneys and/or patent agents: Berne C. Broadbent, Registration No. 30,550; Dale E. Hulse, Registration No. 29,654; Todd E. Zenger, Registration No. 33,610; Michael F. Krieger, Registration No. 35,232; Michael Conger, Registration No. 43,562; Scott C. Krieger, Registration No. 42,768, and Keith Hargrove, Registration No. 34,836, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith. All correspondence and telephonic communications should be directed to:

Michael F. Krieger
KIRTON & McCONIE
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

Wherefore, I pray that Letters Patent be granted to me for the invention or discovery described and claimed in the foregoing specification and claims, declaration, power of attorney, and this petition.

Signed at 10:14 AM, this 2nd day of November 1999.

Inventor:


James B. Loveland
1885 North Skyline Drive
Orem, Utah 84097

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DECLARATION CLAIMING SMALL ENTITY STATUS
FOR A SMALL BUSINESS CONCERN

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I, James B. Loveland, hereby declare: that I am President of Xactware, Inc., a Utah corporation of the State of Utah and having a principal place of business at 1426 East 750 North, Orem, Utah 84057; I am empowered to act on behalf of Xactware, Inc., and that Xactware, Inc., qualifies as a small business concern as defined in 13 C.F.R. § 121.3-18 and 37 C.F.R. § 1.9(d), for purposes of paying reduced fees to the Patent and Trademark Office under Section 41(a) and (b) of Title 35, United States Code, in that the number of employees of Xactware, Inc., including those of its affiliates, does not exceed 500 persons. I understand that, for purposes of this declaration, (1) the number of employees is the average over the previous fiscal year of the number of persons employed on a full-time, part-time, or temporary basis during each of the pay periods of the fiscal year, and that (2) two business concerns are considered to be affiliates of each other when one business concern either directly or indirectly controls or has the power to control the other, or when a third party or parties control or have the power to control both business concerns.

I further declare that all rights, title, and interest relating to the invention entitled "Graphical Method and System for Modeling and Estimating Construction Parameters" invented by James B. Loveland as described in the patent application filed August 31, 1999, Serial No. 09/386,270, have been conveyed to and currently remain with Xactware, Inc.

I acknowledge the duty to file, in the above-mentioned application or any patent issued in respect thereof, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of (1) the issue fee or (2) any maintenance

fee due after the date on which status as a small entity is no longer appropriate. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful, false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Signed at Orem, Utah, this 2nd day of November 1999.

XACTWARE, INC.

By: James B. Loveland
James B. Loveland, President